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OFFICE OF THE ATTORNEY GENERAL

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DEC 10 1985

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Dr. W. Earle Riley, Chairman
Alabama State Board of
Medical Examiners
P. O. Box 946
Montgomery, AL 36130

Pharmacy Board - Physicians -
Drugs - Pharmacists

Definition given as to "establish
and promote a pharmacy."

Dear Dr. Riley:

This office is in receipt of your letter requesting clarification of our pharmacy board opinion of July 23, 1985. Apparently there was some confusion over the usage of the phrase "establish and promote a pharmacy." After reviewing your request in conjunction with applicable law, the following clarification is hereby issued:

DEFINITION OF THE TERM "TO ESTABLISH AND PROMOTE
A PHARMACY"

A physician may be said to "establish and promote a pharmacy" within the meaning of this opinion if he or she establishes or operates a sales outlet for the sale of controlled substances to non-patients, which controlled substances are prescribed by any physician or other authorized licensed practitioners.

For the purposes of this opinion a physician does not "establish and promote a pharmacy" merely because he or she does one of the following acts:

1. dispenses or administers any legend drug or controlled substance to a patient of that physician or the patient of another physician in the same group, partnership, professional corporation, professional association, clinic or other entity with whom the physician practices; or

2. orders or directs either orally or in writing an employee of the physician or of a partnership, group, professional corporation, professional association, clinic or other entity with whom the physician practices where such physician has responsibility for the direct supervision of the employee to administer or to dispense to a patient as described above any drug or compound including legend drugs and controlled substances within the confines of the office, clinic, hospital, or other health care facility wherein the physician practices.

3. either personally or with the assistance of any employee under his direct supervision, purchases, stores, maintains, labels or packages, any drug or compound, including any legend drug or controlled substance for the purpose of administering, prescribing, selling or otherwise making available such drugs to a patient.

However, as noted previously, should a physician establish and promote a pharmacy as a part of his operation the state drug inspectors have the authority to inspect those records and inventories pertaining to the pharmacy operation. It should be emphasized that most problems can be solved by full cooperation between the State Board of Pharmacy and the State Board of Medical Examiners.

Dr. W. Earle Riley
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If this office may be of further assistance, please feel
free to inquire.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL

By:

A handwritten signature in cursive script, reading "H. William Wasden". The signature is written in dark ink and is positioned above the typed name of the signatory.

H. WILLIAM WARDEN
ASSISTANT ATTORNEY GENERAL

HWW:em